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Bridgepoint Education, Inc.

11 UNITED STATES DISTRICT COURT
12 SOUTHERN DISTRICT OF CALIFORNIA

13 BRIDGEPOINT EDUCATION, INC.,

14 Plaintiff,

15 v.

16 PROFESSIONAL CAREER
DEVELOPMENT INSTITUTE, LLC, and
17 DOES 1-10, inclusive,

18 Defendants.

CASE NO. 07 CV 2222 IEG (BLM)

**DECLARATION OF JON E. MAKI IN
SUPPORT OF THE PARTIES' JOINT
MOTION TO RE-SCHEDULE THE
EARLY NEUTRAL EVALUATION
CONFERENCE**

[Joint Motion filed concurrently herewith and
[Proposed] Order sent to
efile_major@casd.uscourts.gov]

Courtroom 1, 4th Floor
Honorable Irma E. Gonzalez

Complaint Filed: November 20, 2007
Trial Date: None set.

22 PROFESSIONAL CAREER
DEVELOPMENT INSTITUTE, LLC,

24 Counterclaimant,

25 v.

26 BRIDGEPOINT EDUCATION, INC.,

27 Counterdefendant.

DECLARATION OF JON E. MAKI

I, Jon E. Maki, declare as follows:

1. I am an attorney at law duly admitted to practice before all courts in the State of California and the United States District Court for the Southern District of California. I am an associate in the law firm of Sheppard, Mullin, Richter & Hampton LLP, counsel for Plaintiff and Counterdefendant Bridgepoint Education Inc. ("Plaintiff" or "Bridgepoint"). I have personal knowledge of the facts set forth below and, if called as a witness, could and would testify competently thereto.

2. On November 20, 2007, Plaintiff filed the complaint in the above-captioned matter. On or about January 10, 2008, we received a copy of the Notice and Order Setting the Early Neutral Evaluation ("ENE") Conference for February 20, 2008 at 1:30 p.m. ("Notice of ENE Conference"). Pursuant to Local Rule 16.1(c), the ENE Conference shall be heard on or before February 22, 2008.

3. Upon receipt of the Notice of ENE Conference, I conferred with Plaintiff's CEO, Mr. Andrew Clark about his availability to attend on that date. Mr. Clark informed me that he has an out-of-state, pre-paid vacation set for February 16-29 and, therefore, cannot appear before this Court at the ENE Conference on February 20. Mr. Clark is the best representative for the client as he is fully aware of all facts involved in this litigation and has full settlement authority.

4. Upon learning of Mr. Clark's unavailability on the currently scheduled date, I met and conferred with Defendants' counsel, Mr. James P. Kelly, pursuant to Local Rule 26.1 to attempt to find a mutually available date prior to February 16 (due to the February 22 cut-off set by Local Rule 16.1(c) and the unavailability of Mr. Clark). Mr. Kelly informed me that he would be out of the office on a prior commitment from February 4 through February 15. Mr. Kelly also

1 informed me that he serves as PCDI's primary business attorney, acting basically as its outside
2 General Counsel, and that he would need to be present to represent PCDI at the ENE.

3
4 5. The parties believe it will be very beneficial towards settlement to have Mr.
5 Clark personally attend the ENE Conference, rather than a different Bridgepoint representative
6 with less knowledge and understanding of the facts and circumstances leading to this litigation and
7 counterclaims.

8
9 6. Given Mr. Clark's and Mr. Kelly's unavailability, Mr. Kelly and I
10 determined that the first day all parties' principals and counsel are available for an in-person ENE
11 is March 10, 2008. The parties are most definitely interested in participating in an in-person ENE
12 and look forward to the Court's assistance in attempting to resolve the matter.

13
14 7. Based on these circumstances, the parties agreed upon and have proposed
15 March 10, 2008, to hold the re-scheduled ENE, subject to the Court's availability and approval.

16
17 8. I received permission opposing counsel's permission to e-file the Joint
18 Motion to Continue the ENE date and the [Proposed] Order granting said motion using Sarah M.
19 Shalf's s/ signature.

20
21 I declare under penalty of perjury under the laws of the State of California and the
22 United States of America that the foregoing is true and correct.

23
24 Executed February 13, 2008, at San Diego, California.

25
26
27 s/Jon E. Maki

28 Jon E. Maki

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